

Article - Public Utilities

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§9–304.

(a) (1) A Maryland railroad company may cross or divert an unnavigable stream whenever it is necessary to construct a railroad.

(2) A Maryland railroad company that diverts a stream is liable for damage caused by the diversion.

(b) A Maryland railroad company may cross a canal or a navigable stream if the company:

(1) submits to the Board of Public Works a plan for the canal or stream crossing that includes the location and building plans of the bridge and other necessary fixtures; and

(2) receives written approval from the Board of Public Works.

(c) (1) If the Board of Public Works disapproves a plan submitted by a Maryland railroad company or fails to approve the plan within 20 days after filing, the Maryland railroad company may apply to the circuit court of the county where the canal or stream crossing is planned or to another court of competent jurisdiction.

(2) The court shall:

(i) provide reasonable notice to the Board of Public Works;

(ii) for good cause shown, appoint a disinterested and competent engineer, who does not reside in a county through which the Maryland railroad company's railroad passes and who, within 20 days of being appointed:

1. shall examine the canal or stream crossing; and

2. shall establish a plan and any conditions necessary to cross the canal or stream in a way that will not impede navigation; and

(iii) examine the engineer's plan and conditions for the canal or stream crossing, and unless good cause is shown, approve the plan and conditions.

(3) An order by the court approving the plan and conditions for the canal or stream crossing shall be sufficient authority for the Maryland railroad company to elect, use, and occupy the bridge.

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